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NATIONAL CONSUMER LAW CENTER®
Advancing Fairness in the Marketplace for All

Comments to the Department of Education on Program Integrity Issues
Proposed Rules
(Submitted August 2, 2010)

Docket ID ED-2010-OPE-0004

Introduction

On behalf of our low-income clients, the National Consumer Law Center (NCLC)[1] is responding to the Department of Education's proposed rule on program integrity issues, published on June 18, 2010 (75 Fed. Reg. 34806).

Persistent abuses and fraud in the proprietary school sector shatter the hopes and aspirations of many students seeking higher education. At the National Consumer Law Center's Student Loan Borrower Assistance Project, we see the harm to students on a regular basis through our direct client representation work.[2] All of our clients live in Massachusetts and all are available for free legal assistance. We also consult with lawyers across the country representing borrowers, many with complaints against proprietary schools. In addition, a large percentage of the complaints we get through our Student Loan Borrower Assistance web site involve proprietary schools.

We commend the Department for initiating the rulemaking sessions and for proposing regulations that should help curb abuses. In addition to the recommendations below to strengthen certain provisions, we urge the Department to aggressively enforce the final rules and other existing laws. The rules will only have an impact if the Department enforces them and ultimately if private enforcement is allowed. This is a major concern because historically the regulatory triad of the federal Department of

[1] The National Consumer Law Center, Inc. is a nonprofit Massachusetts corporation, founded in 1969, specializing in consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low-income consumers across the country. NCLC publishes a series of practice treatises and annual supplements on consumer credit laws, including *Student Loan Law* (3d ed. 2006 and Supp.), as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers. NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities to borrowers and advocates. See www.studentloanborrowerassistance.org.

[2] For more information about proprietary sector abuses and recommendations for reform, see comments submitted by NCLC, PIRG, and Public Advocates, Inc. to the FTC, October 16, 2009. The comments are available on-line at: http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/policy_briefs/FTCguides1009.pdf.

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Education, state licensing agencies, and accreditation agencies has failed to protect students.

We also urge the Department to work for targeted and comprehensive relief for borrowers who are harmed by illegal and deceptive practices. The proposed rules are an essential step toward ensuring that federal funds are better spent and to deter future abuses. However, these rules do not provide additional relief for student victims nor do the rules clarify or strengthen existing relief provisions.

Deanne Loonin, attorney with NCLC, was an alternate negotiator representing legal aid clients during the negotiated rulemaking sessions. Along with the primary negotiator representing consumer groups, we were part of the consensus that was reached on the majority of issues. Although we are not bound by this consensus, we will confine our comments for the most part to the key areas where consensus was not reached: incentive compensation, state authorization, and gainful employment. We also include comments about ability to benefit (ATB) provisions.

Incentive Compensation

We strongly support the Department's proposal to remove the safe harbors. We have argued for years that these provisions not only swallowed the incentive compensation prohibition, but were contrary to the statute at 20 U.S.C. § 1094(a)(20). We discussed many of the problems with aggressive and often illegal recruiting in our 2005 report."*Making the Numbers Count: Why Proprietary School Performance Data Doesn't Add Up and What Can be Done About It*."[3]

Although we generally support the Department's proposal, we believe that additional clarification is needed to ensure that the final rules conform to the Department's stated intentions.

1. Clarifications in § 668.14(b)(22)(i)(A) and (b)(22)(ii)

The Department notes in the preamble at p. 34819 that "incentive payments should not be based in any part, directly or indirectly, on success in securing enrollments or the award of financial aid." The "in any part" language is critical to affirm the Department's intent to prohibit <u>any</u> payments tied to success in securing enrollments or the award of financial aid. The Department highlighted this issue in discussing the problems with the first safe harbor which limited the rule to payments tied "solely" to prohibited incentives.

We recommend that the clearer and stronger language in the preamble be included in the regulations. This will help ensure efficient enforcement and deter those who will attempt to exploit any ambiguity.

[3] The report is available on-line at: http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/ProprietarySchoolsReport.pdf.

We recommend that the "in any part" language be included at sections (b)(22)(i)(A) and (b)(22)(ii) . The suggested language would state that commissions, bonuses, or other incentives payments may not be based IN ANY PART, directly or indirectly upon success in securing enrollments or the award of financial aid…

2. Section 668.14(b)(22)(iii)(B)

The Department included a very important explanation in the preamble at p. 34819 that the prohibition on incentive compensation applies to payments made in connection with completion as well as payments related to any other period of time. The Department stated that students who complete the programs are in the same category as those who enroll.

We urge the Department to make this explanation explicit in the regulations. We recommend that section (b)(22)(iii)(B) read as follows: "Securing enrollments or the awards of financial aid means activities that a person or entity engages in for the purpose of the admission or matriculation of students for any period of time, INCLUDING THROUGH COMPLETION (emp. added), or the award of financial aid to students.

While the Department is clear about its intent in the preamble, it is more effective for enforcement purposes to include the language in the regulations.

State Authorization

We strongly support the Department's statement in the proposed regulations that state approval to offer postsecondary educational programs is a "substantive requirement." This will help ensure that each leg of the regulatory triad is independent and strong.

We also share the Department's concern that some states have deferred oversight responsibility to accrediting agencies. However, we believe that the proposed rule does not go far enough to address this concern.

We recommend that the final rule include a language providing that states may not defer authorization responsibilities to accrediting agencies. Section 600.9(b) should also include a provision stating that accreditation may not be accepted as a sufficient basis for granting or continuing authorization to operate. Further, the rule should state that the state authorization process must be independent of any accreditation process or decision.

In addition, we are concerned that the proposed rule may create a race to the bottom if it is interpreted to allow states to rely on authorizations granted in other states. The regulation should include a provision that each state must have an independent process. States should be able to use and consider information from other states, but not completely defer to other state processes.

Gainful Employment

We strongly support the Department's efforts to address issues of gainful employment. Among the hundreds of clients we have represented over the years who have enrolled in proprietary schools, not a single individual has reported finding a job in the field related to the supposed training course. A large part of the blame clearly lies with schools that aggressively recruit students with false promises of job placement and employment.

In order to avoid repetition, we are not submitting our own comments on this issue, but instead endorse the comments submitted by Consumer Federation of California, Legal Aid Foundation of Los Angeles and Margaret Reiter ("CFC Comments."). The gainful employment section of these comments is attached as Appendix A.

The CFC comments support much of the proposed record keeping and disclosure requirements, but also include a number of key recommendations. On a broader level, the comments affirm that disclosures alone will never be enough to ensure that schools that are required to offer courses that lead to gainful employment truly do so. Disclosures can be helpful, especially if they are offered early in the process and are clear and conspicuous. However, there is virtually no evidence that disclosures impact consumer decision making in a meaningful way.

As we have stated repeatedly in other contexts, including with respect to disclosures about credit products, no amount of disclosure can adequately protect the public from the failure to underwrite for the basic affordability of loans and in this case for the failure to properly admit students for higher education.

The fiction that disclosures are sufficient to regulate markets is especially apparent for illiterate or barely literate consumers. For example, we recently assisted a client who was pressured into signing up for a proprietary school medical assistant program even though she dropped out of school in ninth grade and had only a sixth grade reading level. She did not complete the course, has never found work in the medical assistant field, has been in and out of homelessness and went into default on the student loans.

Individuals with limited English skills are often exploited as well, including a recent client who signed up for a cosmetology course after being told by a Spanish-speaking school representative that the instructors were bilingual. This was not true. She stayed for a few weeks because fellow students offered to help with translation. This was not a lasting solution to the language barrier, especially since the texts were in English only. Our client dropped out after a few weeks, but this did not stop the school collections department from seeking to collect nearly $5,000 for the few weeks she attended.

Disclosure is not an adequate counterweight to school overreaching. Even further, unscrupulous school officials have historically manipulated the numbers presented in

disclosures, completely undermining the benefits of transparency.[4] Disclosures alone are never enough to police a market, but false disclosures actually create additional disruption and distortions.

These disclosure provisions are useful only in conjunction with the recently released proposed rules setting a substantive standard for gainful employment. We will submit separate comments on those proposed regulations.

We agree with the suggestions in the CFC Comments regarding Internet disclosures. In addition to the points raised in those comments, it is important to note that many of our clients do not have reliable access to the Internet. This may seem impossible to believe in this hyper-connected age, but this remains a major issue for low-income consumers. In our experience, most of our clients can use the Internet at times, but this access is often sporadic and in some cases too expensive to maintain. In addition, our homeless clients often rely on libraries or limited services at the shelter. Access through these means is often restricted.

Ability to Benefit (ATB) Testing

Abuses in recruitment of testing of "ability to benefit" students are among the most harmful and persistent problems we have seen over the years. The GAO documented a number of these problems in a 2009 report. [5]

Unfortunately, we continue to see clients who fall victim to these abusive practices. For example, we currently see clients at a workforce development program in Boston. Many of the mostly female clients are homeless or recently homeless and trying to go back to school. About 2/3 of these clients cannot go back to school because they are in default on loans from proprietary schools. Many of these clients did not have high school diplomas or equivalences when they attended the schools.

We hear a range of complaints, including cases where students initially fail ATB tests and in violation of the regulations are immediately retested. A recent client told us of a situation where a test administrator assisted the students in passing the exam. We have also found among our clients that even those ATB students that complete the programs (a minority of the clients we see) often find that they cannot get jobs because they do not have high school diplomas.

We believe that the entire ATB testing system should be re-evaluated. The idea that a relatively simple test is sufficient to assess suitability for higher education makes little sense in theory or practice. In particular, we believe that potential students at vocational schools should be tested not only for basic reading and math comprehension, but also to assess ability to benefit from the particular vocational program.

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[4] See generally, National Consumer Law Center, "*Making the Numbers Count: Why Proprietary School Performance Data Doesn't Add Up and What Can be Done About It*" (2005).

[5] U.S. Government Accountability Office, "*Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid*", GAO-09-600 (August 2009).

We support most of the changes to the ATB regulations in the proposed rule. In particular, the changes to the norming requirements were long overdue and should enhance the integrity of these tests. However, the provision in § 668.148 regarding tests of non-native speakers of English should be amended to ensure that if the test is in Spanish, it should be accompanied by a distribution of test scores that indicates the mean score and standard deviation for a representative sample of Spanish-speaking students. As currently written, the rule requires comparison only to those who happened to take the test, not a representative sample.

We support the new requirement to notify schools, the Department, and the students or prospective students whose tests were given by a test administrator who has been decertified if tests the administrator handled may have been improperly administered. We believe all students whose tests were administered by the decertified test administrator should be notified. At a minimum, if the test publisher found improper testing by the decertified test administrator only at certain schools, then at least all students tested by that administrator at those schools should be notified. The Department should not be in the position of allowing information to be concealed from students whose rights may be affected by the test administrator's conduct.

This is critical because many of these borrowers will be eligible to cancel their loans based on false certification. It is very difficult for borrowers to gather evidence of testing irregularities and fraud. Yet we have found that many false certification applications are denied due to lack of evidence. Often, the borrower's own statement on the discharge application form is the only available evidence of ATB falsification (for example, the student certifying that no test was given or that the school helped the student pass the test). The Department is skeptical of such applications and generally requires the presentation of additional independent evidence of ATB falsification, such as a finding by an entity that had oversight responsibility, statements by school officials, or statements by other students, including statements made in other claims for discharge relief. This is a huge obstacle for borrowers seeking false-certification discharges that will be alleviated to some degree if the borrowers are notified of decertification.

Thank you for your consideration of these comments.

Appendix A

Comments of Consumer Federation of California; Elena Ackel, Legal Aid foundation of Los Angeles; and Margaret Reiter in Response to Department of Education Notice of Proposed Rulemaking (NPRM) dated June 18, 2010, Regarding Program Integrity Issues

Gainful Employment in a Recognized Occupation

§ 668.6 Reporting and Disclosure Requirements for Programs that Prepare Students for Gainful Employment in a Recognized Occupation

We strongly support the effort evidenced in the proposed regulation to address issues of gainful employment. For too long billions of dollars have been funneled to owners of proprietary schools, which are only eligible for student financial aid dollars if their programs prepare students for gainful employment, without any standard as to the meaning of gainful employment and without any uniform reporting by which Congress, the public, and prospective students could compare schools.

We believe that the little-used section 668.8(g) incorporated in the proposed rule is inadequate. Instead, we propose to specify the procedures in section 668.8(g) itself. We suggest several other changes to ensure the disclosures will provide accurate, needed information.

A. Proposed Changes to § 668.6:

We recommend the following changes to the proposed regulation, which we explain below:

(a) *Reporting requirements.* In accordance with procedures established by the Secretary, an institution must report annually for each student who enrolls for ½ time or full-time course work and who exits a program under §668.8(c)(3) or (d), information that includes –

(1) Information needed to identify the student;

(2) The Classification of Instructional Program (CIP) code of the program the student completed, or in which the student was enrolled, if the student did not complete;

(3) The date the student completed or withdrew from the program; and

(4) The amounts the student received from private educational loans known or which reasonably should be known to the institution and institutional financing plans.

(b) *Disclosures.* For each program offered by an institution under this section, the institution must provide prominently, clearly and conspicuously the following information on its Web site, and, for each program about which a prospective student inquires or the school communicates with a prospective student, the

institution must provide directly to the prospective student, prominently, clearly, and conspicuously during the prospective student's first contact with the institution, whether by the Internet, phone, in person, or otherwise, the following information:

(1) The occupations (by names and SOC codes) that the program prepares students to enter, along with links to occupational profiles on O*NET or its successor site;

(2) The on-time graduation rate for students entering the program;

(3) The cost of the program, including tuition and fees charged to full-time and part-time students; estimates of costs for necessary books and supplies; estimates of typical charges for room and board; estimates of transportation costs for students; and other costs of attendance that a typical student would incur for the program;

(4) Beginning no later than June 30, 2013, the placement rate for students completing the program, calculated, documented, and verified as follows:

(i) Determine the number of students who, during the award year, completed the program and were eligible to receive the degree or certificate for successfully completing the program.

(ii) Of the total obtained under paragraph (b)(4)(i) of this section, determine either the number of those former students who obtained paid employment in one of the recognized occupations identified in (b)(1), or the number of those former students who obtained paid employment with a starting salary equal to or exceeding the 25th decile of salaries reported by the Bureau of Labor Statistics for the highest paid SOC code for which the program prepares students (A) within 180 days after the date they completed the program and became eligible to receive their degree or certificate or,

(B) if a license or certification is required or generally requested for positions in the occupation, within 180 days after the results are available from the first exam for that license or certification the student would have been able to take after completion of the program; and

who have been employed for at least 32 hours per week for at least 13 weeks after completion of the program.

(iii) Determine the number of students under paragraph (b)(ii)

(A) by a state workforce data system, but if the system cannot determine whether the student was employed continuously during the entire 13 weeks, then by using at least two dates for data inquiry — one within 170 to 180 days and a second within 13 to 25 weeks after the completion or exam result date, as applicable; or

(B) if reporting by a state workforce data system is not available to the institution, then as calculated by the institution. If the institution chooses to demonstrate placement rates by the number of graduates placed in one of the recognized occupations identified for the program, the institution shall document that the employment satisfies the requirements of paragraph (b)(4)(ii) by a statement from the employer certifying the name of the employer, the contact information for the employer, the identity of the student, the position for which the student was employed, the duties of the position, the first and last date of employment, the number of hours per week worked, and the starting salary for the position; and by the institution's statement of the SOC code the institution determines is applicable to the position. If the institution chooses to demonstrate placement rates by the

salaries graduates earn, the institution shall document that the employment satisfies the requirements of paragraph (b)(4)(ii) by signed copies of State or Federal income tax forms or a W-4 or paystubs evidencing the salary claimed to have been earned.

(iv) Divide the number of students determined under paragraph (b)(4)(ii) and (iii) of this section by the total obtained under paragraph (b)(4)(i) of this section.

(v) Substantiate the placement rates by having the certified public accountant who prepares the institution's audit report required under §668.23 report on the institution's placement rate disclosures based on performing an attestation engagement in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants (AICPA). In addition to any other appropriate examination or review, if the institution relies on placements in the recognized occupations identified for the program and if the institution did not rely on a state workforce data system, the attestation shall include sufficient direct contact with former students and employers whose statements were obtained by the school so as to have a valid, reliable sampling of the information on which the placement rates are based; and

(5) The median loan debt incurred by students in connection with enrollment at the institution, a direct or indirect affiliate, or at any other institution under common ownership or control who either completed the program or exited the program without completing during the preceding three years, calculated separately for completers and non-completers. The institution must identify separately the median loan debt from title IV, HEA program loans, and the median loan debt from private educational loans and institutional financing plans.

B. Explanation of the Changes We Recommend:

§668.6(a) Reporting Requirements and 668.6(b)(5)

We urge the Department to collect and require disclosure of the information on loans for both those who complete and those who do not. Both pieces of information are relevant for prospective students and for taxpayers and their representatives.

§ 668.6(a)(4) (private loan information)

We anticipate that some schools may provide incomplete information about private loans, contending they do not know what private loans a student has. In fact, most schools have preferred lender lists, help students arrange these private loans, recommend lenders, receive the student's payment from the lender, or otherwise have information about the lender. Requiring schools to include any private loans about which they know or should reasonably know would clarify that schools cannot avoid this disclosure by feigned ignorance.

§ 668.6(b) (disclosures)

The Department asks whether having the required information on the Web is the most appropriate way to ensure prospective students obtain this information. We believe that having it on the Web is a good step, but not sufficient by itself.

First, as websites become ever more complicated, disclosures can be buried by the number of clicks required to reach them, by uninformative headings that steer people away from the disclosures to other, less pertinent information, or by other means that obscure the information. Consequently, we recommend that the requirement for disclosure on the Web include language specifying that the disclosures must be clear, conspicuous and prominent. This formulation will allow schools flexibility to meet their particular programs, but is sufficiently commonly used to have a sound legal basis for its meaning.

Second, we note that schools would be well-advised to maintain date-certain copies of their Web site disclosures in case a dispute arises later about what was or was not disclosed. Typically, Web sites change frequently. Without that kind of record schools might have a difficult time defending a claim that they did not provide the required disclosures. They would not be able to demonstrate what was disclosed on the Web during any particular time period.

While that would be prudent for schools to do, many may not do it. We believe that schools should be required to maintain date-certain copies of the Web site disclosures. We ask that the Department update record maintenance requirements contained elsewhere in its regulations to coordinate with this proposed rule. The record-keeping rule should be revised to specify that schools must maintain a dated record of each iteration of the required Web site disclosures.

Third, while having information on a Web site is helpful, many students still do not find out about schools to prepare them for gainful employment from the Web, but rather from TV ads or ads in other locations, such as welfare offices or employment offices. Even students who find out about a school on the Web may not focus on the information about particular programs until they contact the school and are focused more particularly on certain programs. For this reason, we believe this information also needs to be provided directly to students, however they are first in contact with the school.

Fourth, such disclosures in consumer transactions are sometimes required to be provided before the consumer signs a binding contract. In a proprietary school setting, , however, that is much too late. By that time, the student has typically been given a complete sales pitch, taken an admission or ATB test, met with financial counselors, so that the signature seems a mere formality. To be meaningful, the disclosures need to be provided when the student first makes contact and any particular programs are mentioned. Similarly, these direct disclosures to prospective students, like those on the Web site, need to be prominent, clear and conspicuous or they can be drowned out by elaborate sales pitches.

Even so, we remain convinced that to ensure schools are providing gainful employment, disclosure of placement rates alone is insufficient, but we will discuss that in more detail in connection with the Program Integrity: Gainful Employment NPRM, dated July 26, 2010.

§ 668.6(b)(2) (On-time Graduation Rate)

We understand this to mean, when the student enrolled, the date which the school indicated would be the date the program would end. This is very useful for students as it will help them plan their time and resources accordingly, and determine if the represented completion date is realistic.

§ 668.6(b)(3) (Cost of Attendance)

We believe the references to costs differ somewhat from the costs set forth in section 668.43(g). We adapted that section here and referenced "cost of attendance," a term used elsewhere in connection with financial aid. Our intent is that the disclosure include all costs that a student may encounter, including, for example, cost of transportation to an extern site or the cost of necessary uniforms or equipment.

§ 668.6(b)(4) (Placement Rate)

We believe relying on section 668.8(g) for the placement rate disclosures is inadequate for several reasons and recommend a number of changes to address these problems. Rather than referring to section 668.8(g), we believe the better course is to tailor those disclosure calculation methods to this section.

In a new paragraph 668.6(4)(i), we propose to make the denominator those students who have completed the program and are *eligible* for a degree or certificate, rather than those who have *received* the degree or certificate. We are aware that sometimes schools delay actually providing the certificate or degree to the student, or the student may delay picking up the certificate or diploma. Such a delay could skew results. To eliminate that possibility, our proposed change would set the date for determining completion and the start of the 180-day period to the date the student has completed the program and is eligible for the degree or certificate.

In part, by referencing section 668.8(g) as an alternative to a state data system, the proposed regulation seems not to set any time standards (e.g., within 180 days, for 13 weeks) for placement if the school uses the state data system. That is because those time standards are part of the section 668.8(g) alternative to the state data system. In new paragraph 668.6(b)(4)(ii) we specify that the time standards for counting as a placement are the same, whichever alternative is used.

In section 668.6(b)(4)(ii), we specify the employment must be "paid." Although this seems redundant, we propose this change because we are aware that some proprietary schools have even counted unpaid internships as employment.

We also confine jobs to be included in the placement rate to those in one of the identified SOC codes for the program offered, unless the salaries demonstrate employment at or above the level available for the highest SOC code the institution designates. We have often seen

that some schools attempt to stretch the concept of a "related" comparable job. For example, a school might include any job at a hospital, including the lowest paying jobs, when the person trained for a skilled job such as an x-ray technician. Because schools are required to identify the SOC codes for which they contend the program prepares a student, they can identify all realistically related comparable jobs for which the program would prepare students. Under our proposal, if, instead, they wish to count jobs unrelated to the SOC codes for which the program prepares students, they may rely on salaries to show successful placement.

To address the situation that students graduating from some programs cannot qualify for employment until they pass a licensing or certification exam, in (b)(4)(ii)(B) we propose to set the start date for the 180-day period after the results are available from the first exam available to a student after completing the program.

We also add a requirement in (b)(4)(ii)(B) that to count as a placement, the work must be for at least 32 hours per week. The 32 hours per week is a standard that was used for 19 years in California. We are aware of situations in which proprietary schools count as placement any time worked at all during a week, even if the student is just working an occasional hour or two a week. We believe most prospective students are interested in their chances of getting full-time work in the field for which they train, so limiting the disclosure to work of at least 32 hours per week gives some flexibility, but is more in line with prospective students' expectations for work.

We have seen that some proprietary schools do not accurately report placement rates. For that reason, as well as to provide as much uniformity as possible, we propose that schools must use a state data system if one is available. We make allowance in (b)(4)(iii) for the possibility that some state data systems may not be able to track employment continuously for the 13 weeks by allowing two data points to be used as a proxy.

In new paragraph (4)(iii)(B), we propose specifying what must be contained in an employer statement to document employment in the identified recognized occupations. Section 668.8(g) gives no guidance on that point, hence the suggested change. We do not recommend continuing the other means of documentation under 668.8(g) to determine placement in recognized occupations. The means allowed under that section do not guarantee that the student is working in one of the recognized occupations for which the program was intended to prepare the student. Nor do they necessarily show that the student obtained the work after completing the course, rather than simply continuing in work they had before they enrolled. We believe that most prospective students are not seeking further education simply to continue in the same job they already have, but to learn a career. Some students may want the education simply to enhance their chances of getting a raise. But raises may be due to increased education, or simply to increased experience or time on the job. So, the impact of education on employment students already had is too uncertain to be generally useful information to prospective students.

We limit use of the other means of documentation to those institutions that choose to rely solely on salary levels to demonstrate placement levels, rather than placement in a

recognized occupation. Tax or pay forms do not necessarily show the job was obtained after the student completed the program. Accordingly, we set a minimum salary limit in paragraph (b)(4)(ii) that has a high probability of capturing jobs that reflect a high enough salary that the employment was likely obtained as a result of the program, rather than a job the person already had before receiving the training.

In new paragraph (b)(4)(v) we provide increased guidance for the type of verification of employment that must be done. We believe that simply requiring "an attestation engagement" is not sufficiently specific as attestations may vary greatly, some simply relying on information provided by the client, with little outside verification.

668.6(b)(5) (median loan debt)

We propose to conform the debt information to the information proposed under the NPRM on Gainful Employment dated July 26, 2010, i.e., that the loan debt include only debt from institutions under common ownership or control or otherwise related, and that it include both completers and non-completers.